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**2013 Edition**

# Equitable Distribution of Marital Property in Connecticut

A Guide to Resources in the Law Library

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# Introduction

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## A Guide to Resources in the Law Library

- “The purpose of alimony is to meet one's continuing duty to support . . . while the purpose of property division is to unscramble the ownership of property, giving to each spouse what is equitably his.” [Weiman v. Weiman](#), 188 Conn. 232, 234, 449 A.2d 151 (1982).
- “At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, the Superior Court may assign to either the husband or wife all or any part of the estate of the other. The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either the husband or the wife, when in the judgment of the court it is the proper mode to carry the decree into effect.” CONN. GEN. STAT. [§ 46b-81](#)(a) (2013).
- “There are three stages of analysis regarding the equitable distribution of each resource: first, whether the resource is property within § 46b-81 to be equitably distributed (classification); second, what is appropriate method for determining the value of the property (valuation); and third, what is the most equitable distribution of the property between the parties (distribution).” [Krafick v. Krafick](#), 234 Conn. 783, 792-793, 663 A.2d 365 (1995).
- **Connecticut’s all property equitable distribution scheme:** “It does not limit, either by timing or method of acquisition or by source of funds, the property subject to a trial court’s broad allocative power.” [Krafick v. Krafick](#), 234 Conn. 783, 792, 663 A.2d 365 (1995).

# Section 1: Connecticut's All Property Equitable Distribution Scheme

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to Connecticut's all property equitable distribution scheme in distributing property as part of an action for dissolution, legal separation or annulment of marriage.

## **CURRENCY:**

- 2013 Edition

## **DEFINITIONS:**

Note: You can visit your local law library or [search the most recent statutes and public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- "It is black letter law that Connecticut is an **equitable distribution property state** . . . ." [Wendt v. Wendt](#), 59 Conn. App. 656, 662, 757 A.2d 1225 (2000) (emphasis added).
- "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, the Superior Court may assign to either the husband or wife **all or any part of the estate of the other.**" CONN. GEN. STAT. [§ 46b-81](#)(a) (2013) (Emphasis added).
- "This approach to property division is commonly referred to as an '**all-property' equitable distribution scheme.**" [Krafick v. Krafick](#), 234 Conn. 783, 792, 663 A.2d 365 (1995) (emphasis added).

## **CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

- [Radcliffe v. Radcliffe](#), 109 Conn. App. 21, 26 Fn.6, 951 A.2d 575 (2008). "In O'Neill, we observed that 'an equitable distribution of property should take into consideration the plaintiff's contributions to the marriage, including homemaking activities and primary care taking responsibilities'; *O'Neill v. O'Neill*, [300]supra, 13 Conn. App. 311; and that 'a determination of each spouses' contribution within the meaning of General Statutes § 46b-81 includes nonmonetary as well as monetary contributions.'" (Internal quotation marks omitted.) *O'Neill v. O'Neill*, [300] supra, 312.
- [Ricciuti v. Ricciuti](#), 74 Conn. App. 120, 124 (2002). "Here, the defendant began receiving a pension from the Department of Defense after his retirement in 1996. The pension accrued over twenty-two years, during nineteen of which the parties were married. The court, therefore, correctly determined that the defendant's pension was subject to distribution under § 46b-81."
- [Mongillo v. Mongillo](#), 69 Conn. App. 472, 481-482, 794 A.2d 1054 (2002). "In fashioning its orders for the disposition of property, the court is obligated to consider the statutory factors relating to the disposition of property in marital dissolution. See General Statutes § 46b-81. The

statutory scheme setting forth the criteria for the court's exercise of discretion in making property awards provides no support for the plaintiff's argument that it was error for the court not to award the plaintiff a portion of the defendant's retirement benefits."

- [Wendt v. Wendt](#), 59 Conn. App. 656, 673, 757 A.2d 1225, cert. den. 255 Conn. 918. (2000). "The court made extraordinary efforts to ensure that the valuation and the division of the marital property was within the bounds of our statutes, case law and constitution. We will not disturb the court's thoughtful analysis and conclusion, which falls well within the bounds of its broad discretion."
- [Lopiano v. Lopiano](#), 247 Conn. 356, 365, 752 A.2d 1000 (1998). "Recent decisions from this court have indeed empowered trial courts to deal broadly with property and its equitable division incident to dissolution proceedings."
- [Watson v. Watson](#), 221 Conn. 698, 607 A.2d. 383 (1992). "Trial court must be accorded discretion in fashioning equitable assignment of property. The power to act equitably is the keystone to the court's ability to fashion relief in the infinite variety of circumstances which arise out of the dissolution of a marriage."
- [Weiman v. Weiman](#), 188 Conn. 232, 235, 449 A.2d 151 (1982). "The division of property was structured in such a manner as to return to the defendant her contribution and that of her family. Payments for the defendant's counsel fees, medical bills, her out standing debts and any capital gains tax on the property were to be made from the proceeds resulting from the sale of the real estate. The defendant, in addition, is to receive significant sums of money and one-half the remainder of the net proceeds from the sale of the real estate....  
...The alimony awarded the defendant was not substantial in amount nor was it for a long period of time. When considered, in the context of other orders which required the plaintiff to pay for the full support, college education, and medical expenses of the five children of the marriage and to maintain insurance on his life for the benefit of the defendant, we cannot say the award is clearly erroneous."
- [Lane v. Lane](#), 187 Conn. 144, 147, 444 A.2d 1377 (1982). "Differences inherent in particular family situations require that the court's discretion be broad enough to make suitable orders upon dissolution of marriage to fit the circumstances."
- [Carpenter v. Carpenter](#), 188 Conn. 736, 740-741, 453 A.2d 1151 (1982). "While the trial court must consider the delineated statutory criteria, no single criterion is preferred over the others, and the court is accorded wide latitude in varying the weight placed upon each item under the

peculiar circumstances of each case."

- [Tsopanides v. Tsopanides](#), 181 Conn. 248, 435 A.2d 34 (1980). "The principal issue raised by this appeal is whether in a dissolution action the court may properly render a judgment ordering the conveyance of property to a party who has not filed a claim for such relief."

**WEST KEY  
NUMBERS:**

- *Divorce*
  - # 248. Disposition of Property
  - # 252.3. —Particular property or interests and mode of allocation

**ENCYCLOPEDIAS:**

- 27B [C.J.S.](#) *Divorce* (2005).
  - § 839-899 Disposition of Property
- 24 [AM JUR](#) 2d *Divorce & Separation* (2008)
  - §§ 467-551. Equitable Distribution
  - §§ 467-472. In general
    - § 467. Generally
    - § 468. Limitations on court's discretion
    - § 469. Disposition of community property
    - § 470. Alimony or maintenance distinguished
    - § 471. Extent of court's jurisdiction
    - § 472. Procedural matters
- Lee R. Russ, Annotation, *Divorce: Equitable Distribution Doctrine*, 41 [ALR4th](#) 481 (1985).
  - II. General aspects of equitable distribution
    - § 3. Marriage viewed as partnership or shared enterprise
    - § 4. Goal is final separation of parties
    - § 5. Extent of application of equitable distribution doctrine
      - [a] View that doctrine is generally available
  - III. Meaning of "Equitable", "Just," or "Fair"
  - V. Relationship between property division and support award
    - § 16. Equitableness of award requires consideration of all economic awards

**TEXTS &  
TREATISES:**

- 3 JOHN TINGLEY AND NICHOLAS SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006)
  - Chapter 43. Equitable distribution doctrine
    - § 43:1. General aspects of equitable distribution
    - § 43:2. Meaning of "Equitable," "Just," or "Fair"
- 3 ARNOLD H. RUTKIN, GEN.ED., [FAMILY LAW AND PRACTICE](#) (2012).
  - Chapter 37. Principles of property division
    - § 37.01 Theories and Principles
      - [b] Equitable distribution: an overview
      - [i] Equitable distribution defined
      - [ii] Goals of equitable distribution
      - [iii] Validity of equitable distribution statutes

[v] "All property" regimes

- BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3RD ED. 2005).
  - Chapter 1. Introduction to equitable distribution
    - § 1.1. The equitable distribution concept
    - § 1.2. Equitable distribution: background and overview
    - § 1.3. –History
    - § 1.4. –Policy
    - § 1.5. –Current trends
    - § 1.6. Constitutionality
    - § 1.7. Retroactive application
    - § 1.8. Equitable distribution practice
  - Chapter 2. Property Division Systems
    - § 2.1. Introduction
    - § 2.2. Goals of Property Division
    - § 2.5. Community Property
    - § 2.7. Equitable distribution
    - § 2.8. All property model
    - § 2.10. All property versus dual classification: a comparison
- JOHN P. MCCAHEY, ED. [VALUATION AND DISTRIBUTION OF MARITAL PROPERTY](#) (2011).
  - Chapter 18. Property subject to equitable distribution
    - § 18.01. Introduction
    - § 18.02. Concept of "property"
    - § 18.03. Types of marital property
    - § 18.04. Times for acquisition of marital property
    - § 18.05. Exclusions from marital property
  - Chapter 19. Determining factors in equitable distribution of marital property
    - § 19.01. Overview
    - § 19.02. Valuation issues
    - § 19.03. Factors in general

## Section 2: Classification of Property

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to what types of property are classified as property in Connecticut as part of an action for dissolution, legal separation or annulment of marriage.

### **CURRENCY:**

- 2013 Edition

### **DEFINITION:**

- **Classification of marital property:** "whether the resource is property within § 46b-81 to be equitably distributed . . . ." [Krafick v. Krafick](#), 234 Conn. 783, 792-793, 663 A.2d 365 (1995).
- **Marital property:** "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, the Superior Court may assign to either the husband or wife all or any part of the estate of the other. The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either the husband or the wife, when in the judgment of the court it is the proper mode to carry the decree into effect." Conn. Gen. Stats. [§ 46b-81](#) (2013).
- Interpreting the term property broadly is also consistent with the purpose of equitable distribution statutes generally." [Krafick v. Krafick](#), 234 Conn. 783, 795, 663 A.2d 365 (1995).
- **Types of property interests:** "Neither § 46b-81 nor any other closely related statute defines property or identifies the types of property interests that are subject to equitable distribution in dissolution proceedings. Our prior cases interpreting § 46b-81 indicate, however, that in enacting § 46b-81, the legislature acted to expand the range of resources subject to the trial court's power of division, and did not intend that property should be given a narrow construction." [Bornemann v. Bornemann](#), 245 Conn. 508, 515-516, 752 A.2d 978 (1998).
- **Property interest vs. expectancy:** " . . . § 46b-81 applies only to presently existing property interests, not 'mere expectancies.'" [Krafick v. Krafick](#), 234 Conn. 783, 797, 663 A.2d 365 (1995).
- "Thus, [Sunbury](#) requires that in dissolution proceedings, the court must determine whether an asset was earned prior to or subsequent to the date of dissolution in order to determine whether the asset is marital property." [Bornemann v. Bornemann](#), 245 Conn. 508, 521, 752 A.2d 978 (1998).

### **STATUTES:**

- CONN. GEN. STAT. (2013)  
[§ 46b-81](#)(a). "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a



Note: You can visit your local law library or [search the most recent statutes and public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

### **CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

complaint under section 46b-45, the **Superior Court may assign to either the husband or wife all or any part of the estate of the other.** The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either the husband or the wife, when in the judgment of the court it is the proper mode to carry the decree into effect.” [emphasis added].

- [Mickey v. Mickey](#), 292 Conn. 597, 628-629, 631, 974 A.2d 641 (2009). “...it is clear that, whatever interest the defendant had in potential disability payments under § 5-192p, that interest was not, at the time of dissolution, a presently existing enforceable right to a future benefit... analyzing an interest that does not become a ‘right,’ much less actual, possessory property, prior to the occurrence of some future event or events involves a second step. We must look at the nature of the contingency to determine whether it is so speculative as to be deemed a mere expectancy or, conversely, whether it is ‘sufficiently concrete, reasonable and justifiable as to constitute a presently existing property interest for equitable distribution purposes.’ [Bender v. Bender](#), supra, 258 Conn. 749.... Furthermore, such an interest, even if it was sufficiently concrete to constitute distributable property, could not be classified as distributable under the facts of this case. A benefit derived from an injury occurring years after a dissolution, meant solely to compensate for the loss of future wages, simply does not represent the ‘fruits’ of the marital partnership that §46b-81 is designed to equitably parse.”
- [Kiniry v. Kiniry](#), 71 Conn. App. 614, 624 (2002). “On the one hand, stock options that are awarded prior to the date of dissolution and awarded solely for past services are considered to be earned during the marriage and are, therefore, considered marital property subject to equitable distribution under § 46b-81 . . . . On the other hand, stock options that are earned prior to the date of dissolution, but that constitute compensation for future services, are not considered to be earned during the marriage and, therefore, are not subject to distribution as marital property under § 46b-81.”
- [Bender v. Bender](#), 258 Conn. 733, 748, 785 A.2d 197 (2001). “[I]n determining whether a certain interest is property subject to equitable distribution under § 46b-81, we look to whether a party’s expectation of a benefit attached to that interest was too speculative to constitute divisible marital property . . . . In cases in which an interest was so speculative as to constitute a mere expectancy, we concluded that it was not property subject to equitable distribution . . . . whereas, in cases in which an interest was not so speculative as to constitute a mere expectancy, but rather a presently existing interest in property, we treated it as property subject

to equitable distribution.”

- [Borneman v. Borneman](#), 245 Conn. 508, 517-518, 752 A.2d 978 (1998). “Despite the fact that the stock options at issue in this case had not yet “matured” or “vested” at the time of dissolution, the options created an enforceable right in the defendant.”
- [Simmons v. Simmons](#), 244 Conn. 158, 168, 708 A.2d 949 (1998). “Consequently, we conclude that an advanced degree is properly classified as an expectancy rather than a presently existing property interest. It is not, therefore, subject to equitable distribution upon dissolution pursuant to § 46b-81.”
- [Krafick v. Krafick](#), 234 Conn. 783, 793, 663 A.2d 365, (1995). “We first consider whether pension benefits should be classified as property pursuant to § 46b-81. We conclude that they should.”
- [Cooley v. Cooley](#), 32 Conn. App. 152, 162-163, 628 A.2d 608, cert. denied 228 Conn. 901, 634 A.2d .295 (1993). “The plaintiff had no vested right at any time to the trust corpus that would permit its inclusion in the marital estate.”
- [Rubin v. Rubin](#), 204 Conn. 224, 232, 527 A.2d 1184 (1987). “We have concluded that the award to the defendant of a share of the plaintiff’s expectancy cannot be sustained as a permissible transfer of property under 46b-81.”
- [Trubowitz v. Trubowitz](#), 5 Conn. App. 681, 687, 502 A.2d 940 (1985). “No statute requires a trial court to make an equal percentage division of all assets. There is often good reason to treat assets differently. Some assets, such as a business dependent upon the personal services of one party, or objects of art or personal furnishings, cannot be divided equally per item or in toto. One party or the other may have a particular interest in, or claim to, a particular asset, and a trial court is not hampered in making whatever distribution of them it chooses, as long as it does so in accordance with statutory guidelines.”

**WEST KEY  
NUMBERS:**

- Divorce
  - # 248. Disposition of property
  - # 252. 3. — Particular property or interests and mode of allocation

**ENCYCLOPEDIAS:**

- 24 [AM. JUR. 2D](#) *Divorce and Separation* (2008).
  - §§ 467-551. Division of property by court
  - §§ 477-491. Property subject to division
  - §§ 492-514. Specific types of property
    - §§ 492-495. In general
    - §§ 496-498. Marital residence
    - §§ 499-502. Professional degrees, license, and practice

§§ 503-505. Pension rights; other benefit payments and awards  
§§ 506-508. Government pensions  
§§ 509-514. Other benefit payments and awards

- 27C [C.J.S. Divorce](#) (2005).
  - §§ 900-925. Specific kinds of property or interests
    - §§ 900-905. Homestead or marital residence
    - §§ 906-912. Retirement, pension, and other employment-related benefits
    - §§ 913-925. Other kinds of property or interests
- See [Table 1](#) for ALR annotations
- 7 ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE, FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).
  - Chapter 26. Assets subject to distribution
    - § 26.1. In general
    - § 26.2. Definition of property
    - § 26.3. Identification of particular assets for distribution
    - § 26.4. Real Estate
    - § 26.5. Marital home
    - § 26.6. Entirety property or joint tenancy holdings
    - § 26.7. Personal property and rights
    - § 26.8. Financial interests
    - § 26.9. Insurance annuities and other policy benefits
    - § 26.10. Receivables
    - § 26.11. Pension and retirement benefits and interests
    - § 26.12. Military retirement benefits and interests
    - § 26.13. Social security benefits
    - § 26.14. Other employment related benefits and assets
    - § 26.15. Professional licenses and degrees
    - § 26.16. Business interests and professional practices
    - § 26.17. Gifts
    - § 26.18. Inheritances, trusts and other estate interests
    - § 26.19. Property acquired before the marriage
    - § 26.20. Property acquired after dissolution action commenced
    - § 26.21. Fraudulent transfers and property transferred while action is pending
    - § 26.22. Debts and liabilities
    - § 26.23. Tort and worker's compensation claims and other pending actions
  - JOHN P. MCCAHEY, ED. [VALUATION AND DISTRIBUTION OF MARITAL PROPERTY](#) (2011).
    - Chapter 18. Property subject to equitable distribution
  - MARVIN SNYDER, [VALUE OF PENSIONS IN DIVORCE](#) (4th ed. 2011)
    - Chapter 1. Pension assets in divorce
    - Chapter 2. Defined benefit pension plans

**TEXTS &  
TREATISES:**

- BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3rd ed. 2005).
  - Chapter 5. Classification
    - § 5.1. General principles
    - § 5.2. The classification process
    - § 5.3. Identification
    - § 5.4. Classification
    - § 5.8. Property
    - § 5.13-- 5.19. Acquired by the parties
    - § 5.20-- 5.64. Property acquired: unitary vs. mixed property
  - Chapter 6. Specific Property
    - § 6.1. Introduction
    - § 6.2. Retirement plans: background and terminology
    - § 6.4. Military retirement pay: federal law
    - § 6.5. Other military service benefits: federal law
    - § 6.13. Other federal government benefits: federal law
    - § 6.18. Private retirement plans: federal law---qualified domestic relations orders
    - § 6.47. Stock options and other restricted employment benefits
    - § 6.59. Workers' compensation proceeds
    - § 6.60. Degrees and licenses
    - § 6.71. Professional practices and other businesses
    - § 6.76. Intellectual property
    - § 6.82. Prizes and awards
    - § 6.83. Marital home
    - § 6.87. Insurance proceeds and policies
    - § 6.91. Future inheritances and gifts
    - § 6.95. Debts
- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).
  - Chapter 36. Valuation of marital property
    - § 36.03. Defining property
      - [1]. Professional degrees and licenses
      - [2]. Professional goodwill
      - [3]. Retirement benefits
  - Chapter 37. Principles of property distribution
    - § 37.04. Classification of property
    - § 37.07. The marital home
    - § 37.08. Business interests
    - § 37.09. Professional goodwill
    - § 37.10. Increased earning capacity resulting from a professional license, graduate degree, or education
    - § 37.11. Retirement benefits
    - § 37.12. Federal government benefits
      - [1] Social security
      - [2] Military retirement
    - § 37.13. Personal injury, workers' compensation, and other awards and claims
    - § 37.14. Debts

Texts & Treatises  
(Continued)

Chapter 38. Guide to equitable distribution  
§ 38.02. Step Number One: Property Subject to  
Distribution

- 2 & 3 JOHN TINGLEY AND NICHOLAS B. SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006).
  - Chapter 4. Ownership of personalty by husband and wife
  - Chapter 10. Pensions and reserve or retired pay
    - § 10:1. Generally
    - § 10:2. Spousal rights in retirement and pension benefits—Generally
    - § 10:5. —Military retirement pay
  - Chapter 38. Service by wife in husband's business
  - Chapter 48. Spouse's professional degree license as marital property
    - § 48:1. Generally
    - § 48:2. Professional goodwill
    - § 48:3. Professional or business goodwill as marital property
  - Chapter 49. Pension retirement benefits as subject to award or division
  - Chapter 50. Accrued vacation, holiday time, and sick leave as marital or separate property
  - Chapter 51. Workers' compensation benefits as marital property
  - Chapter 54. Appreciation in value of separate property during marriage without contribution by either spouse as separate or marital property
  - Chapter 55. Treatment of stock options for purposes of dividing marital property

Table 1: ALR Annotations on Classification of Marital Property

<b>Accounting Practice</b>	Michael J. McMahon, Annotation, <i>Divorce And Separation: Goodwill In Accounting Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 77 <a href="#">ALR4th</a> 645 (1990).
<b>Attorney's Unliquidated Contingent Fee Contracts</b>	Charles W. Davis, Annotation, <i>Divorce And Separation: Attorney's Contingent Fee Contracts As Marital Property Subject To Distribution</i> , 44 <a href="#">ALR5th</a> 671 (1996).
<b>Degree or License</b>	William M. Howard, Annotation, <i>Spouse's Professional Degree Or License As Marital Property For Purposes Of Alimony, Support, Or Property Settlement</i> , 3 <a href="#">ALR6th</a> 447 (2005).
<b>Dental Practice</b>	Martin J. McMahon, Annotation, <i>Divorce And Separation: Medical Or Dental Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 76 <a href="#">ALR4th</a> 1025 (1990).
<b>Inherited Property</b>	George L. Blum, Annotation, <i>Inherited Property as Marital or Separate Property in Divorce Action</i> , 38 <a href="#">ALR6th</a> 313 (2008).
<b>Intellectual Property</b>	Frank J. Wozniak, Annotation, <i>Copyright, Patent, Of Other Intellectual Property As Marital Property For Purposes Of Alimony, Support, Or Divorce Settlement</i> , 80 <a href="#">ALR5th</a> 487 (2000).
<b>Law Practice</b>	Martin J. McMahon, Annotation, <i>Divorce And Separation: Goodwill In Law Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 79 <a href="#">ALR4th</a> 171 (1990).
<b>Lottery Winnings</b>	Amy P. Bunk, Annotation, <i>Division of Lottery Proceeds in Divorce Proceedings</i> , 124 <a href="#">ALR5th</a> 537 (2004).
<b>Medical Practice</b>	Martin J. McMahon, Annotation, <i>Divorce And Separation: Medical Or Dental Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 76 <a href="#">ALR4th</a> 1025 (1990).
<b>Military Services</b>	Ann K. Wooster, Annotation, <i>Construction and Application of Federal Uniformed Services Former Spouse Protection Act in State Court Divorce Proceedings</i> , 38 <a href="#">ALR6th</a> 313 (2010).

Table 1: ALR Annotations on Classification of Marital Property (cont'd)

<b>Pension</b>	Charles C. Marvel, Annotation, <i>Pension Or Retirement Benefits As Subject To Award Or Division By Court In Settlement Of Property Rights Between Spouses</i> , 94 <a href="#">ALR3d</a> 176 (1979).
<b>Personal Injury Settlement or Recovery</b>	Kurtis A. Kemper, Annotation, <i>Divorce and Separation: Determination of Whether Proceeds from Personal Injury Settlement or Recovery Constitute Marital Property</i> , 109 <a href="#">ALR5th</a> 1 (2003). [Continued]
<b>Personal Injury Action</b>	Dale Joseph Gilsinger, Annotation, <i>Spouse's Cause Of Action For Negligent Personal Injury, Or Proceeds Therefrom, As Separate Or Community Property</i> , 80 <a href="#">ALR5th</a> 533 (2000).
<b>Retirement benefits</b>	Charles C. Marvel, Annotation, <i>Pension Or Retirement Benefits As Subject To Award Or Division By Court In Settlement Of Property Rights Between Spouses</i> , 94 <a href="#">ALR3d</a> 176 (1979).
<b>Separate Property, Appreciation in value</b>	George L. Blum, Annotation, <i>Divorce and Separation: Appreciation in Value of Separate Property During Marriage with Contribution by Either Spouse as Separate or Community Property (Doctrine of "Active Appreciation")</i> , 39 <a href="#">ALR6th</a> 205 (2008).  Michael A. Rosenhouse, Annotation, <i>Divorce And Separation: Appreciation In Value Of Separate Property During Marriage Without Contribution By Either Spouse As Separate Or Community Property</i> , 24 <a href="#">ALR4th</a> 453 (1983).
<b>Sick leave</b>	Gavin L. Phillips, Annotation, <i>Accrued Vacation, Holiday Time, And Sick Leave As Marital Or Separate Property</i> , 78 <a href="#">ALR4th</a> 1107 (1990).
<b>Stock options</b>	Eric Hollowell, Annotation, <i>Divorce And Separation: Treatment Of Stock Options For Purposes Of Dividing Marital Property</i> , 46 <a href="#">ALR4th</a> 640 (1986).
<b>Vacation (accrued)</b>	Gavin L. Phillips, Annotation, <i>Accrued Vacation, Holiday Time, And Sick Leave As Marital Or Separate Property</i> , 78 <a href="#">ALR4th</a> 1107 (1990).
<b>Workmen's compensation</b>	Annotation, <i>Divorce And Separation: Workmen's Compensation Benefits As Marital Property Subject To Distribution</i> , 30 <a href="#">ALR5th</a> 139 (1995).

## Section 3: Valuation of Assets

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to valuation of property determined to be property assets relating to marriage.

### **SEE ALSO:**

[Section 4. Specific issues in property valuation](#)

### **CURRENCY:**

- 2013 Edition

### **DEFINITIONS:**

- **Fair market value:** "the price that would probably result from fair negotiations between a willing seller and a willing buyer, taking into account all the factors . . . ." [Brooks v. Brooks](#), 121 Conn App. 659, 668 (2010).
- "[A] trial court has broad discretion in determining the value of property. In assessing the value of ... property ... the trier arrives at [its] own conclusions by weighing the opinions of the appraisers, the claims of the parties, and his own general knowledge of the elements going to establish value, and then employs the most appropriate method of determining valuation.... The trial court has the right to accept so much of the testimony of the experts and the recognized appraisal methods which they employed as [it] finds applicable; [its] determination is reviewable only if [it] misapplies, overlooks, or gives a wrong or improper effect to any test or consideration which it was [its] duty to regard." [Desai v. Desai](#), 119 Conn. App. 224, 233 (2010).
- **Date of valuation:** "This court held that, under § 46b-81, the date of dissolution is the appropriate date on which to value the parties' assets . . . ." [Bornemann v. Bornemann](#), 245 Conn. 508, 515-516, 752 A.2d 978 (1998).

### **CHECKLISTS:**

- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).  
Chapter 36. Valuation of Marital Property  
§ 36.16. Valuation checklist  
[1]. Marital assets  
[2]. Liabilities  
[a]. Debts  
[b]. Liability for debts of third person  
[3]. Documents
- 3 JOHN TINGLEY AND NICHOLAS B. SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006).  
Chapter 43. Equitable distribution of property  
§ 43.24. Checklist: older client

### **CASES:**

- Martin v. Martin, [101 Conn. App. 106](#), 121, 920 A.2d 340 (2007). "[t]he principle that requires the court to value assets as of the date of dissolution does not absolutely preclude the court from considering the significance of the date of separation...[T]he date of separation may be of



Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

significance in determining what is equitable at the time of distribution. In distributing property... the court is instructed to consider the contribution of each spouse in the acquisition, preservation and appreciation of the marital estate."

- [Sowinski v. Sowinski](#), 72 Conn. App. 25, 27, 804 A.2d 872 (2002). "On appeal, the defendant specifically challenges the court's finding with regard to the fair market value of the Copake property and requests that we reverse the court's financial orders. He points out that the parties disputed the value of the Copake property at trial despite the fact that they had stipulated to the value of the Salisbury property. The defendant argues that the court improperly admitted hearsay as to that issue and that the court relied on such hearsay, in the absence of any other competent evidence in support of its finding, when arriving at its valuation of the Copake property. We agree."
- [Porter v. Porter](#), 61 Conn. App. 791, 800, 769 A.2d 725 (2001). "Here, neither party provided the court with expert testimony as to the value of the home. As a result, the court was left with the claims of the parties and its general knowledge to establish the value of the home. According to the defendant, the value of the home was \$285,000. The court, however, determined the value to be \$270,000, a figure slightly less than the value proposed by the plaintiff, \$271,750, which she derived from the mid range of a market analysis. Given the circumstances the court faced in determining the value of the marital home, we cannot conclude that its valuation of \$270,000 was clearly erroneous."
- [Bender v. Bender](#), 258 Conn. 733, 760, 785 A.2d 197 (2001). "We conclude that it is within the trial court's discretion, as it is in the context of vested pension benefits . . . to choose, on a case-by-case basis, among the present value method, the present division method of deferred distribution, and any other valuation method that it deems appropriate in accordance with Connecticut law . . . ."
- [Bornemann v. Bornemann](#), 245 Conn. 508, 531, 752 A.2d 978 (1998). "The court need not, however, assign specific values to the parties' assets."
- [Carlos v. Carlos](#), 19 Conn. App. 416, 419, 562 A.2d 580 (1989). "More important than any speculation about how the trial court might have arrived at the amount of the encumbrances is the fact that the parties had never agreed on these figures. We read the memorandum of decision as stating that the parties stipulated to facts including the total amount of the encumbrances. For that reason, we are constrained to find that the underpinning of the decision is not sound even though the award may be fair."

- [Cuneo v. Cuneo](#), 12 Conn. App. 702, 709, 533 A.2d 1226 (1987). "That requirement is simply part of the broader principle that the financial awards in a marital dissolution case should be based on the parties' current financial circumstances to the extent reasonably possible."
- [Turgeon v. Turgeon](#), 190 Conn. 269, 274-275, 460 A.2d 1260 (1983). "We have approved the capitalization of actual income as an appropriate method of valuation . . . . In the present case the defendant's company was, at the time of its valuation in 1980, a going concern. There was no evidence that it was in the process of liquidation. Although the trier was not obliged to accept the income approach he was not precluded from doing so merely because the company is a closely held, 'one-man' business."
- [Valante v. Valante](#), 180 Conn. 528, 529-530, 429 A.2d 964 (1980). "The defendant first contends that the court could not properly decide the questions of periodic alimony and the assignment of property because it lacked sufficient information respecting the value of the plaintiff's interest in a closely held corporation, in his life insurance policies and in his pension rights. This position is curious. In addition to having access to the plaintiff's financial affidavit, the defendant was given a full opportunity to cross-examine the plaintiff at length regarding his financial circumstances. Further, the defendant had the opportunity to explore the plaintiff's financial circumstances through a variety of discovery procedures. Optimal use of the resources might well have generated additional pertinent facts for the court's consideration. From the defendant's failure to elicit such information, however, it in no way follows that the court acted on insufficient evidence. Reviewing the record in this regard, we find that there was sufficient financial information before the court for it to fashion the appropriate orders on the financial aspects of the case."

**WEST KEY  
NUMBERS:**

- *Divorce*
  - # 248. Disposition of property
  - # 253. —Proceedings for division or assignment
  - # 253(3). Valuation of assets

**ENCYCLOPEDIAS:**

- 24 [AM. JUR. 2D](#) *Divorce and Separation* (2008).
  - §§ 539-551 Valuation
  - §§ 539-544. In general
    - § 540. Time of valuation
    - § 541. Change in value after time of valuation
    - § 542. Effect of dissipation of marital assets
    - § 543. Power to prevent dissipation of marital assets
    - § 544. Expert evidence with respect to valuation
  - §§ 545-551. Specific types of property
- 27B [C.J.S.](#) *Divorce* (2005).
  - § 868. Valuation of assets in general
  - § 869. Measures of value

§ 870. Time of valuation  
§ 871. Types of evidence; experts

- Sonja A. Soehnel, Annotation, *Necessity That Divorce Court Value Property Before Distributing It*, 51 [ALR4th](#) 11 (1987).

**TEXTS &  
TREATISES:**

- 7 ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE, FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).  
Chapter 27. Valuation of assets
  - § 27.1. In general
  - § 27.2. Date of valuation
  - § 27.3. Valuation methods and criteria
  - § 27.4. Book value
  - § 27.5. Assessed value
  - § 27.6. Sale price or purchase offer
  - § 27.7. Appraisal
  - § 27.8. Business type and history
  - § 27.9. General economic conditions
  - § 27.10. Earning capacity
  - § 27.11. Size of holding
  - § 27.12. Goodwill and intangible values
  - § 27.13. Buy-sell agreements
  - § 27.14. Other factors
- George L. Blum, *Divorce and Separation: Appreciation in Value of Separate Property During Marriage with Contribution by Either Spouse as Separate or Community Property (Doctrine of "Active Appreciation")*, 39 [ALR6th](#) 205 (2008).
- BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3rd ed. 2005).  
Chapter 6. Specific Types of Property
  - § 6.43. Survivor benefits
  - § 6.50. Valuation and distribution of stock options
  - § 6.81. Valuation and distribution of intellectual property
  - § 6.98. Valuation of marital debtsChapter 7. Valuation of Assets
  - § 7.1. Need to value
  - § 7.2. Date of valuation
  - § 7.7. Defining value
  - § 7.12. Determining value: rules for the Court
  - § 7.13. Determining value: Advice for the parties
  - § 7.19. Valuation of businesses: general rules
  - § 7.20 Valuation of businesses: total value approach
  - § 7.25 Valuation of businesses: going concern approach
- ROBERT D. FEDER ET AL, ED., [VALUING SPECIFIC ASSETS IN DIVORCE](#) (2000).  
Part III. Real estate
  - Chapter 12. Introduction
  - Chapter 13. High-price homes, including golf course

- communities
  - Chapter 13A. Valuing “green” homes
  - Chapter 14. Vacant land
- Part V. Personal property
  - Chapter 20A. Introduction to personal property
  - Chapter 21. Gems and jewelry
  - Chapter 22. Oriental carpets
  - Chapter 23. Fine arts
  - Chapter 24. Asian art: an overview
  - Chapter 25. Antique clocks
  - Chapter 26. Decorative arts
- Part VI. Machinery and equipment
  - Chapter 27. Overview of machinery and equipment valuation methodology and practice
- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).
  - Chapter 36. Valuation of Marital Property
    - § 36.02. The valuation process—an overview
    - § 36.06. The date of valuation
    - § 36.07. Discovery
    - § 36.09. Valuation experts
- 3 JOHN TINGLEY AND NICHOLAS B. SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006).
  - Chapter 44. Necessity that divorce value property before distributing it
  - Chapter 45. Proper date for valuation
  - Chapter 52. Method of valuation of life insurance policies in connection with trial courts division of property
  - Chapter 56. Valuation of stock options for purposes of divorce court’s property distribution
- BARTH H. GOLDBERG, [VALUATION OF DIVORCE ASSETS](#) (2005).
  - Chapter 1. Valuation process—Generally
  - Chapter 2. Experts and the use of them
  - Chapter 3. Understanding accounting protocol
  - Chapter 4. Use of financial statements
  - Chapter 5. Financial statement analysis
  - Chapter 7. Dealing with corporate stock issues
  - Chapter 12. Particular valuations
  - Chapter 14. Valuation of collectibles

# Section 4: Specific Issues in Property Valuation

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to the valuation of specific types of assets including pensions, professional licenses, degrees, and QDROs.

**CURRENCY:** • 2013 Edition

**DEFINITIONS:** • **Goodwill:** "It can hardly be doubted that the increment of value, loosely termed goodwill, that arises from the established reputation of a business for the quality of its goods or services may often be found to enhance the value of professional as well as other enterprises by increasing their ability to attract patrons." [Eslami v. Eslami](#), 218 Conn. 801, 813, 591 A.2d 411 (1991).

**STATUTES:** • CONN. GEN. STAT. (2013)  
[§ 46b-81](#). Assignment of property and transfer of title

• 42 USC (1998)  
§ 407 (a). Assignment; amendment of section.

Note: You can visit your local law library or [search the most recent statutes and public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

**CHECKLISTS:** • 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).  
Chapter 36. Valuation of Marital Property  
§ 36.16. Valuation checklist  
[1]. Marital assets  
[2]. Liabilities  
[a]. Debts  
[b]. Liability for debts of third person  
[3]. Documents

**CASES:** • [Cifaldi v. Cifaldi](#), 118 Conn. App. 325, 332-333, 983 A.2d 293 (2009). "A QDRO is merely an administrative tool used to effectuate the transfer of marital property, in this case pension benefits, from an employee to a nonemployee spouse....We do not read the parties' agreement in the case before us to make the vesting of the plaintiff's property interest in a portion of the defendant's pension benefits to be in some way contingent on the successful processing of the QDROs. To put it simply, we conclude that the plaintiff's property interest in portions of the defendant's pension benefits was not predicated on the processing of paperwork; the plaintiff cannot be deprived of this important asset on the basis of a mere administrative error."

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

- [Hannon v. Redler](#), 117 Conn. App. 403, 408-409, 979 A.2d 558 (2009). "... the lack of evidence from the defendant did not preclude the court from determining the value of his interest in the medical practice and providing an equitable distribution of this asset. It was not improper for the court to value the asset, by way of the testimony before it, on the basis of the buyout agreement's value of the defendant's interest in the medical practice...  
...Our Supreme Court, in [Bornemann v. Bornemann](#), supra, 245 Conn. 508, noted that "when neither party in a dissolution proceeding chooses to introduce detailed information as to the value of a given asset, neither party may later complain that it is not satisfied with the court's valuation of that asset."
- [Kiniry v. Kiniry](#), 71 Conn. App. 614, 624 (2002). "On the one hand, stock options that are awarded prior to the date of dissolution and awarded solely for past services are considered to be earned during the marriage and are, therefore, considered marital property subject to equitable distribution under § 46b-81 . . . . On the other hand, stock options that are earned prior to the date of dissolution, but that constitute compensation for future services, are not considered to be earned during the marriage and, therefore, are not subject to distribution as marital property under § 46b-81."
- [Eslami v. Eslami](#), 218 Conn. 801, 814, 591 A.2d 411 (1991). "We reject the notion that professional goodwill may be evaluated without consideration of the salability of the practice and the existence of a market for its purchase."
- [Sunbury v. Sunbury](#), 13 Conn. App. 651, 659-660, 538 A.2d 1082 (1988). "With regard to the valuation of the marital residence, we hold that the trial court's finding was solidly based on the evidence produced at trial. The defendant testified that the fair market value of the home was \$75,000. The court was entitled to accept this testimony, especially in light of the fact that the only evidence produced by the plaintiff as to the value of the home was the testimony of an expert who did not know how many rooms the house had."
- [Krafick v. Krafick](#), 234 Conn. 783, 799, 663 A.2d 365 (1995). "We next must determine how vested pension benefits should be valued and distributed. The task of properly valuing pension benefits is complex because such benefits may be defeasible by the death of the employee spouse before retirement and the amount of benefits ultimately received depends upon a number of factors that remain uncertain until actual retirement. Therefore, a trial court, in valuing the parties' assets upon dissolution, has considerable discretion in selecting and applying an appropriate valuation method."

**DIGESTS:**

- ALR Digest: Divorce & Separation § 110
- US Led Digest: Divorce & Separation § 9 Property rights

**ENCYCLOPEDIAS:**

- 24 [AM. JUR. 2D](#) *Divorce and Separation* (2008).
  - §§ 539-551 Valuation
  - §§ 539-544. In general
  - §§ 545-551. Specific types of property
    - § 545. Generally; professional education and license
    - § 546. Professional practice
    - § 547. —Goodwill
    - § 548. Stock or interest in close corporation
    - § 549. Pension rights
    - § 550. —Time of valuation
    - § 551. —Alternative methods of valuing and distributing pension rights
- 27C [C.J.S.](#) *Divorce* (2005).
  - §§ 900-925. Specific kinds of property or interests
  - §§ 900-905. Homestead or marital residence
    - § 903. - Valuation
    - §906. Retirement and other employment-related benefits
    - § 907. - Valuation
    - § 908. Pensions
    - § 909. Military retirement pay or pensions
    - § 911. – Valuation and allocation
    - § 914. Professional practice
    - § 915. — Valuation
    - § 916. Gifts
    - § 917. Inheritances
    - § 918. Insurance
    - § 919. Interests in, and assets of, corporation, partnership, or business
    - § 920. – Valuation
    - § 921. Real property
    - § 922. Securities
    - § 923. — Valuation
    - § 924. Tort claims and settlements
    - § 925. Miscellaneous property or interests

**WEST KEY NUMBERS:**

- *Divorce*
  - # 248. Disposition of property
  - # 253. \_\_\_\_ Proceedings for division or assignment
  - # 253(3). \_\_\_\_ Valuation of assets

**TEXTS & TREATISES:**

- 7 ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE, FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).
  - Chapter 27. Valuation of assets
    - § 27.15. Valuation of particular assets
    - § 27.16. Real estate
    - § 27.17. Advanced education or professional license
    - § 27.18. Professional practices and other closely held businesses

- § 27.19. Marketable securities
- § 27.20. Pension, retirement and profit sharing plans
- JOHN P. MCCAHEY, ED. [VALUATION AND DISTRIBUTION OF MARITAL PROPERTY](#) (2011).
  - Chapter 46. Valuation, assignment, and distribution of pension assets in divorce
  - Chapter 47. Qualified domestic relations orders
- MARVIN SNYDER, [VALUE OF PENSIONS IN DIVORCE](#) (4th ed. 2011)
  - Chapter 12. Time value of money
  - Chapter 13. Valuation of a defined benefit plan
  - Chapter 14. Valuation of a defined contribution plan
  - Chapter 23. Military pensions in divorce
  - Chapter 24. Railroad retirement benefits
- 1 & 3 JOHN TINGLEY AND NICHOLAS B. SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006).
  - Chapter 10. Pensions and reserve or retired pay
    - § 10.8. Evaluating a retirement or pension plan- generally
    - § 10.9. Evaluating a retirement or pension benefit- recent developments- present value
    - § 10.10. Evaluating a retirement or pension benefit- recent developments- proportionate share
    - § 10.11. Evaluating a retirement or pension benefit- recent developments- immediate or deferred award
  - Chapter 44. Necessity that divorce court value property before distributing it
    - § 44.7. Goodwill
    - § 44.8. Pension benefits and interests in business
    - § 44.10. Professional or advanced degree
    - § 44.13 Illustrations of valuation
  - Chapter 49. Pension or retirement benefits as subject to award or division
    - § 49.4. Valuation
- BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3rd ed. 2005).
  - Chapter 6. Specific property
    - § 6.38. Valuation of retirement benefits
    - § 6.42. Military service benefits under state law
  - Chapter 7. Valuation of assets
    - § 7.19. Valuation of businesses: general rules
    - § 7.20. Valuation of businesses: Total value approach
    - § 7.08. Valuation of businesses: Going concern approach
    - § 7.09. Valuation of businesses: Choosing a method
- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).
  - Chapter 36. Valuation of Marital Property
    - § 36.10. The closely held corporation—background
    - § 36.12. A special look at the professional practice



- § 36.13. Valuation of retirement benefits
- § 36.14. Degrees and licenses
- § 36.15. Valuation of non-economic contributions
- § 36.16. Valuation checklist
- ROBERT D. FEDER ET AL, ED., [VALUING SPECIFIC ASSETS IN DIVORCE](#) (2000).
  - Part I. Closely held businesses
    - Chapter 1. Introduction to closely held businesses
    - Chapter 1A. Overview of business valuation methodology and practice
    - Chapter 1B. Industry research and analysis
    - Chapters 2-8A. Small business, bars and restaurants, gas stations and automotive service, convenience stores, automobile dealerships, media, high-tech, property/casualty insurance, financial services, banks, construction companies, printing
  - Part II. Professional practices
    - Chapter 9. Introduction
    - Chapter 10. Medical practices
    - Chapter 11. Legal practices
    - Chapter 11A. Dental practices
  - Part IV. Pensions
    - Chapter 15. Introduction
    - Chapter 16. A primer in pension valuation in divorce
    - Chapter 17. Federal civil service pensions
    - Chapter 18. Military pensions
    - Chapter 19A. TIAA-CREFF
    - Chapter 19B. 401(k) plans
    - Chapter 19C. Cash balance pension plans
- BARTH H. GOLDBERG, [VALUATION OF DIVORCE ASSETS](#) (2005).
  - Chapter 6. Valuation of closely held corporations
  - Chapter 8. Valuation of professional entities, goodwill, and license interests
    - §8.5. Property Rights in Licenses and Degrees – generally
  - Chapter 9. Valuing retirement plans
  - Chapter 15. A compendium of valuation cases covering specific assets
- RONALD L. BROWN, ED. [VALUING PROFESSIONAL PRACTICES AND LICENSES, A GUIDE FOR THE MATRIMONIAL PRACTITIONER](#) (3rd ed. 1998).
  - Part A: Basic concepts in valuing professional practices
  - Part B: Valuing law practices
  - Part C: Valuing medical and dental practices
  - Part D: Valuing accounting practices
  - Part E: Valuing architectural and engineering practices
  - Part F: Valuing professional degrees and licenses
  - Part G: Merger and double counting
  - Part H: Handling celebrity cases
  - Part I: Miscellaneous topics

- MARSHAL S. WILICK, [MILITARY RETIREMENT BENEFITS IN DIVORCE: A LAWYER'S GUIDE TO VALUATION AND DISTRIBUTION](#) (1998).

**LAW REVIEWS:**

- *Difficult Valuation Issues Symposium*, 35 [FAMILY LAW QUARTERLY](#) No. 2 (Summer 2001).
  - Challenges in valuing pension plans
  - The challenges of stock options
  - Exploring the use of the time rule in the distribution of stock options on divorce
  - Valuation basics and beyond: tackling areas of controversy
  - The effect of goodwill in determining the value of a business in a divorce

Table 2: Valuing and Distributing Pensions and Retirement Benefits

<b>Valuing and Distributing Pension and Retirement Benefits</b>
<p>"There are three widely approved methods of valuing and distributing pension benefits." <a href="#">Krafick v. Krafick</a>, 234 Conn. 783, 800, 663 A.2d 365 (1995).</p>
<b>1. Present value (or offset) method</b>
<p>"The first method involves placing a present value on the retirement plan, as of the date of dissolution, by using actuarial tables to determine the life expectancy of the employee-spouse, by considering all the circumstances of the case, and by evaluating the probability that the employee-spouse will eventually exercise his or her rights under the retirement plan." <a href="#">In re Marriage of Grubb</a>, 745 P.2d 661 )Colo. 1987).</p> <p>"Calculating a pension's present value depends on several factors, including the employee spouse's life expectancy, the proper interest rate for discount and the date of retirement." <a href="#">Krafick v. Krafick</a>, 234 Conn. 783, 800, 663 A.2d 365 (1995).</p> <p>"Once the court has determined the present value of the benefits at issue, it may, in light of relevant equitable considerations, award those benefits to the employee spouse and/or may offset the nonemployee's equitable share in the pension benefits with an award of other assets." <a href="#">Krafick v. Krafick</a>, 234 Conn. 783, 801, 663 A.2d 365 (1995).</p> <p><b>Advantage:</b> The offset method has the advantage of effecting a 'clean break' between the parties." <a href="#">Krafick v. Krafick</a>, 234 Conn. 783, 802, 663 A.2d 365 (1995).</p> <p><b>Disadvantage:</b> "The drawback to the offset method is that it places the entire risk of forfeiture before maturity on the employee spouse. Further, this method is not feasible when there are insufficient other assets by which to offset the value of the pension . . . ." <a href="#">Krafick v. Krafick</a>, 234 Conn. 783, 802, 663 A.2d 365 (1995).</p>

## 2. Present Division Method

" . . . involve[s] delaying distribution until the pension matures." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995).p. 803.

"Under the 'present division' method, the trial court determines at the time of trial, the percentage share of the pension benefits to which the nonemployee spouse is entitled. The court may then, through a QDRO for pensions covered by ERISA or some equivalent if the non-ERISA plan permits, presently divide or assign the pension benefits between the spouses." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995)..

**Advantage and disadvantage:** "the advantage of imposing on the parties equally the risk of forfeiture, but have the cost of prolonging the parties' entanglement with each other." [Krafick v. Krafick](#), 234 Conn. 783, 803-804, 663 A.2d 365 (1995). pp.

" . . . favored when there are insufficient assets to offset the award of the pension to the employee spouse alone or when the evidence is inadequate to establish present value." [Krafick v. Krafick](#), 234 Conn. 783, 804, 663 A.2d 365 (1995).

## 3. Reserved Jurisdiction Method

" . . . involve[s] delaying distribution until the pension matures." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995).

"Alternatively, under the 'reserved jurisdiction' method, the trial court reserves jurisdiction to distribute the pension until benefits have matured. Once matured, the trial court will determine the proper share to which each party is entitled and divide the benefits accordingly." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995).

**Advantage and disadvantage:** "the advantage of imposing on the parties equally the risk of forfeiture, but have the cost of prolonging the parties' entanglement with each other." [Krafick v. Krafick](#), 234 Conn. 783, 803-804, 663 A.2d 365 (1995). pp. 803-804.

" . . . favored when there are insufficient assets to offset the award of the pension to the employee spouse alone or when the evidence is inadequate to establish present value." [Krafick v. Krafick](#), 234 Conn. 783, 804, 663 A.2d 365 (1995).

"These methods are not exclusive.

A trial court retains discretion to select any other method to take account of the value of a pension asset 'that might better address the needs and interests of the parties.' [In re Marriage of Grubb](#), supra, 745 P.2d 666. The touchstone of valuation, as well as the ultimate distribution of pension benefits, is the court's 'power to act equitably.' [Pasquariello v. Pasquariello](#), 168 Conn. 579, 585, 362 A.2d 835 (1975)." [Krafick v. Krafick](#), 234 Conn. 783, 804, 663 A.2d 365 (1995).

Table 3: QDROs: Sample & Model Forms

**Qualified Domestic Relations Orders: Samples and Model Forms**

- 8A ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE SERIES. FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).  
  - § 50.58. Sample Qualified Domestic Relations Order (QDRO)
- JOHN P. MCCAHEY, ED. [VALUATION AND DISTRIBUTION OF MARITAL PROPERTY](#) (2011).  
  - Appendix 47A. Sample Qualified Domestic Relations Orders (QDRO) and Related Forms
    - § 47A.01. Sample QDRO - division of defined benefit plan
    - § 47A.02. Sample QDRO - division of defined contribution plan
    - § 47A.03. IRS Sample language for qualified domestic relations order
    - § 47A.04. IRS Model IRC §402(f) notice
- SHULMAN, GARY, [DIVIDING PENSIONS IN DIVORCE: NEGOTIATING AND DRAFTING SAFE SETTLEMENTS WITH QDROS AND PRESENT VALUES](#) (3RD ED. 2010).  
  - Chapter 17. Drafting a "proper" QDRO for pensions and 401(k)s
    - § 17.05. Model QDROs for a "defined benefit" pension plan
    - § 17.07. Model QDRO for a "defined contribution " pension plan
    - § 17.08. Model QDRO for employee stock ownership plans
- 1B [AMERICAN JURISPRUDENCE LEGAL FORMS](#) 2d (2008)  
  - § 17:183. Retirement Benefits—Distribution Of Pension With Qualified Domestic Relations Order
- 4 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).  
  - § 46.08. Forms
    - [1]. MODEL FORMS: Order for assignment of interest in retirement plan
    - [2]. MODEL FORM: Qualified Domestic Relations Order
    - [3]. FORM: Determination as to qualification of domestic relations order, notice of participant and alternate payee, agreement to comply with order and other relief
    - [4]. FORM: Letter to plan administer
- 7 [WEST'S LEGAL FORMS](#) (3d ed, 2006).  
  - Chapter 18. Property Distribution
    - § 18:105. Percentage distribution of pension—use of qualified domestic relations order
    - § 18:106. Disposition of pension plan—qualified domestic relations order
    - § 18:107. Disposition of profit-sharing plan—qualified domestic relations order

Table 4: ALR Annotations on Property Valuation

<b>Accounting Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Goodwill In Accounting Practice For Purposes Of Divorce Court 's Property Distribution</i> , 77 <a href="#">ALR4th</a> 609 (1990).
<b>Dental Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Goodwill In Medical Or Dental Practice For Purposes Of Divorce Court's Property Division</i> , 78 <a href="#">ALR4th</a> 853 (1990).
<b>Law Firm</b>	Dag E. Ytreberg, Annotation, <i>Evaluation Of Interest In Law Firm Or Medical Partnership For Purposes Of Division Of Property In Divorce Proceedings</i> ," 74 <a href="#">ALR 3d</a> 621 (1976).
<b>Law Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Good Will In Law Practice For Purpose Of Divorce Court's Property Settlement</i> ," 77 <a href="#">ALR4th</a> 683 (1990).
<b>Medical Partnership</b>	Dag E. Ytreberg, Annotation, <i>Evaluation Of Interest In Law Firm Or Medical Partnership For Purposes Of Division Of Property In Divorce Proceedings</i> ," 74 <a href="#">ALR3d</a> 621 (1976).
<b>Medical Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Goodwill In Medical Or Dental Practice For Purposes Of Divorce Court's Property Division</i> , 78 <a href="#">ALR4th</a> 853 (1990).

# Section 5: Distribution of Property

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic materials resources relating to methods and formulas for division of assets relating to marriage.

## **CURRENCY:**

- 2013 Edition

## **DEFINITIONS:**

- **Coverture:** "is defined as '[t]he status and rights of the wife arising from the marriage relationship'; *Ballentine's Law Dictionary* (3d Ed. 1989); and has a long history of use regarding marital assets." [Wendt v. Wendt](#), 59 Conn. App. 656, 666, 757 A.2d 1225 (2000).
- **Coverture fraction:** "established by the court for the unvested stock options consisted of a fraction, 'the denominator of which shall be the number of months from the date of grant to the date of vesting [when the options no longer will be] subject to divestment, and the numerator [of which shall] be the number of months from the date of grant to December 1, 1995 [the date of the parties' separation].' Specifically, the plaintiff challenges the coverture numerator, contending that the court should have used the date that the defendant's employment commenced instead of the date that the unvested assets were granted and the date of dissolution instead of the date of separation. We disagree." [Ibid.](#), 665-666.

## **STATUTES:**

Note: You can visit your local law library or [search the most recent statutes and public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- CONN. GEN. STAT. [§ 46b-81](#) (2013).  
(c). "In fixing the nature and value of the property, if any, to be assigned, the court, after hearing the witnesses, if any, of each party, except as provided in subsection (a) of section 46b-51, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates."

## **CHECKLISTS:**

- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).  
Chapter 38. A practical guide to equitable distribution  
§ 38.04[2]. The Check: an asset-by-asset guide

## **CASES:**

- [De Repentigny v. De Repentigny](#), 121 Conn. App. 451, 461-462, 995 A.2d 117 (2010). "In regard to its decision to grant ownership of de Assembly to the defendant, the court found that '[t]hroughout the marriage, although both parties made contributions to the acquisition, maintenance and reservation

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater.' Given the court's findings regarding the level of the respective parties' involvement with and management of de Assembly, and the inherent difficulty one could expect were a divorced couple required to operate a business together, we will not second-guess the court's decision to grant ownership of de Assembly to the defendant."

- [Sapper v. Sapper](#), 109 Conn. App. 99, 110-111, 951 A.2d 5 (2008). "...The court properly considered the liquidation of the college funds in ordering their replenishment as part of the distribution of the marital property. The plaintiff also claims that the court improperly considered the issue of fault in awarding the defendant 80 percent of the remaining proceeds of the marital estate. He is mistaken."
- [Wendt v. Wendt](#), 59 Conn. App. 656, 666, 757 A.2d 1225 (2000). "In modern times, a coverture factor has reemerged as a mechanism for apportioning between spouses the benefit or value of unvested stock options, retirement plans or other benefits that were earned partially during and partially after the marriage."
- [Damon v. Damon](#), 23 Conn. App. 111, 114, 579 A.2d 124 (1990). "The plaintiff complains that the judgment, providing that the contents of the home "shall become the sole property of the defendant unless within one month of the date of the Judgment the parties agree on a division of said contents between themselves," is an improper delegation of the court's power to make the distribution. The essential meaning of these words is that the defendant would be the owner of the personalty unless she chose to give the plaintiff some of it. The court did not, therefore, delegate its authority to distribute assets."
- [Vincent v. Vincent](#), 178 Conn. 212 at 212, 423 A.2d 879 (1979). "In this action, both parties alleged that the marriage was broken down irretrievably. The court dissolved the marriage and ordered that the real estate in the name of the plaintiff husband be transferred to the defendant wife and then be sold by the defendant without delay. Upon completion of the sale, deducting all necessary expenses, the net proceeds were to be divided equally between the parties. The plaintiff husband has appealed from this judgment."
- [Ehrenkranz v. Ehrenkranz](#), 2 Conn. App. 416, 421-422, 479 A.2d 826 (1984). "The defendant's claim that he is left with a minus net worth must be weighed in view of the facts that the payment of the five annual installments of lump sum alimony was not to start until January 1, 1983, and that he was left with substantial income producing assets."
- [Murphy v. Murphy](#), 180 Conn. 376, 378, 429 A.2d 897 (1980). "Rather than determine what each party had



contributed to every category of property in dispute, that is, real property, personal property, bank accounts, and other assets, the court considered their property as a whole.”

- [Croke v. Croke](#), 4 Conn. App. 663, 663-664, 496 A.2d 235 (1985). “The judgment of December 11, 1980, provides that the plaintiff has the right to occupy jointly owned real property located at 276 Park Street in New Canaan, with the parties' minor child until the minor child attains age eighteen, or residential custody of the minor child is transferred to the defendant, or the death or remarriage of the plaintiff or her cohabitation with another person under circumstances which would warrant the modification of periodic alimony pursuant to the provisions of General Statutes 46b-86, or the plaintiff elects to vacate the premises.”
- [Ivey v. Ivey](#), 183 Conn. 490, 493, 439 A.2d 425 (1981). “The decree rendered in the present case was of the second type, i.e., it ordered the plaintiff to transfer her interest in the Florida property to the defendant. The order did not purport to transfer title to out-of-state realty by its own terms. The plaintiff's argument that the court below was bound to apply Florida law, when it made its order relating to the Florida land, lacks merit. Inasmuch as the decree did not directly affect title to the Florida lands, this dissolution action did not differ materially from any other dissolution.”

**WEST KEY  
NUMBER:**

- *Divorce*
  - # 248. Disposition of property
  - # 252.2. \_\_\_\_ Proportion or share given on division
  - # 252.3. \_\_\_\_ Particular property or interest and mode of distribution
  - # 252.4. \_\_\_\_ Debts and liabilities, allocation of; creditors' rights
  - # 252.5. \_\_\_\_ Homestead or residence; disposition of
  - # 253. \_\_\_\_ Proceedings for division or assignment

**ENCYCLOPEDIAS:**

- 24 [AM. JUR. 2D](#) *Divorce and Separation* (2008).
  - §§ 530-538. Manner of division
    - § 530. Generally
    - § 531. Presumption of equal division
    - § 532. Award of money or distribution in kind
    - § 533. Partition
    - § 534. Use of mathematical formulas; weighting of pertinent factors
    - § 535. Joint ownership after dissolution
    - § 536. Division of debts
    - § 537. Authority to divide nonmarital property
    - § 538. –Effect of statute
- 27B [C.J.S.](#) *Divorce* (2005).
  - §§872-878. Apportionment of assets and liabilities
  - §§ 891-899. Methods of distribution

- Amy P. Bunk, Annotation, Division of Lottery Proceeds in Divorce Proceedings, 124 [ALR5th](#) 537 (2004).
- Sonja A. Soehnel, Annotation, *Divorce: Propriety Of Property Distribution Leaving Both Parties With Substantial Ownership Interest In Same Business*, 56 [ALR4th](#) 862 (1987).
- Ferdinand S. Tinio, Annotation, *Divorce Or Separation: Consideration Of Tax Liability Or Consequences In Determining Alimony Or Property Settlement Provisions*, 51 [ALR3d](#) 461 (1973).

**TEXTS &  
TREATISES:**

- 7 ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE, FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).  
 Chapter 29. Distribution of Assets
  - § 29.1. Methods of distribution
  - § 29.2. Sale or buy-out
  - § 29.3. Distribution in kind
  - § 29.4. Offsetting assets and credits
  - § 29.5. Deferred sale or distribution
  - § 29.6. Time rule for division
  - § 29.7. Distribution of particular types of assets
  - § 29.8. Marital home
  - § 29.9. Allocation of expenses and/or appreciation
  - § 29.10. Allocation of equity
  - § 29.11. Outright transfer and allocation of liabilities
  - § 29.12. Present or future buy-out
  - § 29.13. Family business
  - § 29.14. Pension, retirement and deferred compensation interests
  - § 29.15. Insurance interests
  - § 29.16. Effect of transfers prior to trial
  - § 29.17. Distribution to children or other third parties
  - § 29.18. Effect of distribution on rights of creditors
  - § 29.19. Finality of distribution; effect of after discovered property
- SHULMAN, GARY, DAVID I. KELLEY AND DANIEL E. KELLEY, [DIVIDING PENSIONS IN DIVORCE: NEGOTIATING AND DRAFTING SAFE SETTLEMENTS WITH QDROS AND PRESENT VALUES](#) (3RD ED. 2010).
- MARVIN SNYDER, [VALUE OF PENSIONS IN DIVORCE](#) (4th ed. 2011)  
 Chapter 17. Pension court orders
- 3 JOHN TINGLEY AND NICHOLAS B. SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006).  
 Chapter 49. Pension or retirement benefits as subject to award or division  
 Chapter 55. Treatment of stock options for purpose of dividing marital property  
 Chapter 57. Award of interest on deferred installment payments of marital asset distribution

Chapter 58. Proprietary of using contempt proceeding to enforce property settlement award or order

- BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3d ed. 2005).

Chapter 6. Specific Types of Property

§ 6.28. Methods for distributing retirement benefits

§ 6.46. Mechanics for dividing survivor benefits

§ 6.50. Valuation and distribution of stock options

§ 6.81. Valuation and distribution of intellectual property

§ 6. 85. Division of marital home

§ 6.99. Division of marital debts

Chapter 9. Mechanics of Division

§ 9.1. Introduction

§ 9.2. Transfer of title

§ 9.8. Monetary award

§ 9.12. Sale

§ 9.16. Enforcement

§ 9.23 Modification and other post-judgment actions

- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).

Chapter 37. Principles of property distribution

§ 37.06. Division of property by the court

[1]. Determining an "equitable" distribution

[2]. Ordering distribution

§ 37.07. The marital home

§ 37.08. Business interests

§ 37.09. Professional goodwill

§ 37.10. Increased earning capacity resulting from a professional license, graduate degree, or education

§ 37.11. Retirement benefits

§ 37.12. Federal government benefits

§ 37.13. Personal injury, worker's compensation, and other awards and claims

§ 37.14. Debts

#### **LAW REVIEWS:**

- *Difficult Valuation Issues Symposium*, 35 [FAMILY LAW QUARTERLY](#) No. 2 (Summer 2001).
  - Challenges in valuing pension plans
  - The challenges of stock options
  - Exploring the use of the time rule in the distribution of stock options on divorce
  - Valuation basics and beyond: tackling areas of controversy
  - The effect of goodwill in determining the value of a business in a divorce

# Section 6: Factors in Equitable Distribution of Property

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to non-financial factors to be considered in the equitable distribution of property.

## **CURRENCY:**

- 2013 Edition

## **STATUTES:**

Note: You can visit your local law library or [search the most recent statutes and public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- CONN. GEN. STAT. [§ 46b-81](#) (2013).  
(c). "In fixing the nature and value of the property, if any, to be assigned, the court, after hearing the witnesses, if any, of each party, except as provided in subsection (a) of section 46b-51, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates."

## **CASES:**

Note: Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

- [Desai v. Desai](#), 119 Conn App. 224, 238, 987 A2d. 362 (2010). "...The court found the plaintiff to be responsible for the breakdown of the marriage. It also stated that '[d]espite the brevity of the marriage, the court cannot disregard the physical violence.'  
The court clearly considered the statutory criteria set forth in § 46b-81....There is no additional requirement that the court specifically state how it weighed these factors or explain in detail the importance it assigned to these factors."
- [Fitzsimons v. Fitzsimons](#), 116 Conn. App. 449, 456, 459, 975 A2d 729 (2009). "...In light of the court's finding, upon reconsideration, that the defendant's conduct in causing the irretrievable breakdown of the parties' marriage should be taken into consideration in the division of the equity of the marital home, we cannot say that awarding the plaintiff an additional 10 percent of that equity was an abuse of the court's discretion....  
...There was no need for the plaintiff, having timely proposed an order giving her more than a simple 50 percent interest in the house, to set forth in her proposed orders every possible disparate division of the equity in the marital residence for the court to have discretion to grant a postjudgment motion to reargue..."
- [Gershman v. Gershman](#), 286 Conn. 341, 351, 943 A.2d 1091 (2008). "...the trial court considered the defendant's 'dissipation of family assets' in ordering the overall asset

division between the parties. The trial court specifically referred to two acts of dissipation. The first was the defendant's 'bad investment' in the various Alkon partnerships. The second was the \$200,000 loss on the sale of the excessively expensive marital home. The trial court, however, did not find either financial misconduct, e.g., intentional waste or a selfish financial transaction, or that the defendant had used marital assets for a nonmarital purpose with regard to either of these transactions. In the absence of such findings, we must reverse the judgment of the trial court and remand the case for a new trial."

- [Finan v. Finan](#), 287 Conn. 491,493, 949 A2d 498 (2008). "We conclude...that a trial court should consider preseparation dissipation of marital assets, so long as the actions constituting dissipation occur either: (1) in contemplation of divorce or separation; or (2) while the marriage is in serious jeopardy or is undergoing a irretrievable breakdown."
- [Picton v. Picton](#), 111 Conn App. 143, 152-153, 958 A.2d 763 (2008). "The plaintiff focuses on §46b-81(c) and its requirement that the court consider the contribution of the parties to the acquisition, preservation or appreciation in value of the Cape Cod property and argued that the court abused its discretion by failing to take proper consideration of these factors. These factors, however, are only a few of the many factors specifically mentioned in §46b-81(c).... ...Certainly the court would not be abusing its discretion in considering the defendant's substantial nonmonetary contributions that enabled the plaintiff to spend weekends away from his primary residence and his children so that he could upgrade the Cape Cod property."
- [Greco v. Greco](#), 70 Conn. App. 735, 740, 799 A.2d 331 (2002). "Despite the defendant's contentions to the contrary and his own review of the criteria set forth in § 46b-81, we cannot construe the court's award as an abuse of discretion in light of the court's finding that the defendant's infidelity was the cause of the breakdown of the marriage. That is a factor that the court was required to consider pursuant to § 46b-81."
- [Solomon v. Solomon](#), 67 Conn. App. 91, 92-93, 787 A.2d 4 (2001). "The transcript reveals that the court took into consideration, among other things, the occupations of the parties, their ages, their contributions to the marriage, the cause of the breakdown of the marriage and their opportunities for future earnings, and therefore properly considered factors set forth in General Statutes §§ 46b-81 (c) (setting forth factors for distribution of assets) and 46b-82 (setting forth factors for determining alimony). It is clear that the court properly applied the law and reasonably rendered its orders on the basis of all of the facts."

**WEST KEY  
NUMBERS:**

- *Divorce*
  - # 248. Disposition of property
  - # 253. —Proceedings for division or assignment

**ENCYCLOPEDIAS:**

- 24 [AM. JUR. 2D](#) *Divorce and Separation* (2008).
  - §§ 515-529. Factors considered in division
    - § 515. Generally
    - § 516. Duration of Marriage
    - § 517. Age and health of parties
    - § 518. Earning capacity and employability
    - § 519. Value of separate property
    - § 520. Origin of property
    - § 521. Loss of inheritance
    - § 522. Custody and child support
    - § 523. Homemaker's services
    - § 524. Alimony and maintenance
    - § 525. Tax consequences
    - § 526. Dissipation of marital assets
- 27B [C.J.S.](#) *Divorce* (2005).
  - §§ 879-890. Factors considered.
- Lee R. Russ, Annotation, *Divorce: Equitable Distribution Doctrine*, 41 [ALR4th](#) 481 (1985).
  - §§ 11-13. Nonfinancial Factors Considered
- Kristine Cordier Karnezis, Annotation, *Fault As Consideration In Alimony, Spousal Support, Or Property Division Awards Pursuant To No-Fault Divorce*, 86 [ALR3d](#) 1116 (1978).

**TEXTS &  
TREATISES:**

- 7 ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE, FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).
  - Chapter 28. Factors to be considered for Division of Property
    - § 28.1. In general
    - § 28.2. Length of the marriage
    - § 28.3. Causes for the dissolution
    - § 28.4. Age of the parties
    - § 28.5. Health of the parties
    - § 28.6. Station of the parties
    - § 28.7. Occupation
    - § 28.8. Amount and sources of income
    - § 28.9. Vocational skills and employability of the parties
    - § 28.10. Estates of the parties
    - § 28.11. Liabilities and needs of the parties
    - § 28.12. Opportunity for future acquisition of assets and income
    - § 28.13. The contributions of each party to the acquisition, preservation or appreciation of assets
    - § 28.14. Dissipation of assets
    - § 28.15. Tax implications

§ 28.16. Other factors considered

- James L. Buchwalter, Annotation, *Unclean Hands as Bar to Equitable Relief in Domestic Relations Proceeding or Dispute*, 2002 [ALR5th](#) 17 (2002).
- JOHN P. MCCAHEY, ED. [VALUATION AND DISTRIBUTION OF MARITAL PROPERTY](#) (2011).  
Chapter 19. Determining factors in equitable distribution of marital property
- 3 JOHN TINGLEY AND NICHOLAS B. SVALINA, [MARITAL PROPERTY LAW](#) (rev. 2d ed. 2006).  
Chapter 42. Tax consequences arising directly from court's property distribution order
- 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2012).  
Chapter 37. Principles of property distribution  
§ 37.06. Division of property by the Court  
[1]. Determining an "equitable" distribution  
[2]. Contributions of the parties  
Chapter 38. A practical guide to equitable distribution
- BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3d ed. 2005).  
Chapter 8. Division of Assets  
§ 8.1. General principles  
§ 8.2. Burden of proof: presumptions and starting points  
§ 8.3. Establishing the factors  
§ 8.4. Balancing the factors  
§ 8.5. Contributions to specific assets  
§ 8.10. General contributions to the marital partnership  
§ 8.14. Duration of the marriage  
§ 8.15. Future financial needs  
§ 8.23. Conduct of the parties  
§ 8.27. Tax consequences  
§ 8.32. Other considerations: the catch-all factor
- GARY A. SHULMAN, DAVID I. KELLEY AND DANIEL E. KELLEY, [DIVIDING PENSIONS IN DIVORCE: NEGOTIATING AND DRAFTING SAFE SETTLEMENTS WITH QDROS AND PRESENT VALUES](#) (3RD ED. 2010).

Table 6: Treatment of various types of property in each stage of determination

	Classification	Valuation	Distribution
<b>Closely held businesses and corporations</b>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN ET AL.</a> § 26.16</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation § 493</li> <li>• 27C <a href="#">C.J.S</a> Divorce §§ 914, 919</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a>, Chap. 6</li> <li>• <a href="#">RUTKIN ET AL.</a> § 27.18</li> <li>• <a href="#">TURNER</a> §§ 7.19-7.29</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation § 548</li> <li>• 27C <a href="#">C.J.S</a> Divorce §§ 915, 920</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN ET AL.</a> § 29.13 (family business), §38.05[1][d]</li> </ul>
<b>Collectibles</b> such as baseball cards, books, furniture, paintings, etc.		<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a> Ch.14</li> </ul>	
<b>Debts and liabilities</b>	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> §§ 6.95-6.97;</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.20</li> <li>• 27B <a href="#">C.J.S</a> Divorce §§ 877-878</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a> § 15.508</li> <li>• <a href="#">TURNER</a> § 6.98</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 37.14</li> <li>• <a href="#">TURNER</a> § 6.99</li> <li>• 24 <a href="#">AM JUR 2D</a> Divorce and Separation § 536</li> </ul>
<b>Gifts</b> (including engagement rings, wedding presents and interspousal gifts)	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> §§ 5.31-5.46</li> <li>• <a href="#">RUTKIN</a> § 37.10</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.15</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 489-491</li> <li>• 27C <a href="#">C.J.S</a> Divorce § 916</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a> §§ 12.2 and 15.396</li> </ul>	
<b>Inheritances</b>	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> §§ 5.47 and 6.91</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.16</li> <li>• 27C <a href="#">C.J.S</a> Divorce § 917</li> </ul>		



	Classification	Valuation	Distribution
<ul style="list-style-type: none"> <li><b>Insurance</b></li> </ul>	<ul style="list-style-type: none"> <li><a href="#">TURNER</a> §§ 6.87-6.88</li> <li><a href="#">RUTKIN ET AL.</a> § 26.9</li> <li>24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 511-512</li> <li>27C <a href="#">C.J.S.</a> Divorce §§ 918</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">GOLDBERG</a> §§ 12.3-12.7</li> <li><a href="#">TURNER</a> § 6.88</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">RUTKIN ET AL.</a> § 29.15</li> <li><a href="#">TURNER</a> § 6.88</li> </ul>
<ul style="list-style-type: none"> <li><b>Intangibles</b> including intellectual property</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">TURNER</a> § 6.73-6.80</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">GOLDBERG</a>, § 12.8</li> <li><a href="#">TURNER</a> §6.81</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">TURNER</a> §6.81</li> </ul>
<ul style="list-style-type: none"> <li><b>Marital Home</b></li> </ul>	<ul style="list-style-type: none"> <li><a href="#">RUTKIN</a> § 37.07[1]</li> <li><a href="#">RUTKIN ET AL.</a> § 26.5</li> <li>24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 496-498</li> <li>27C <a href="#">C.J.S.</a> Divorce § 900-902</li> <li><a href="#">TURNER</a> § 6.84</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">GOLDBERG</a>, §§ 15.151 – 15.159</li> <li><a href="#">RUTKIN</a> § 37.07[2]</li> <li>27C <a href="#">C.J.S.</a> Divorce §903</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">RUTKIN</a> § 37.07[3], § 39.05[1][a]</li> <li><a href="#">RUTKIN ET AL.</a> § 29.8</li> <li><a href="#">TURNER</a> § 6.85</li> <li>27C <a href="#">C.J.S.</a> Divorce §904-905</li> </ul>
<ul style="list-style-type: none"> <li><b>Pensions and retirement plans</b></li> </ul>	<ul style="list-style-type: none"> <li><a href="#">RUTKIN ET AL.</a> § 26.11</li> <li>24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 503-505</li> <li>27C <a href="#">C.J.S.</a> Divorce §§ 906-912</li> <li><a href="#">RUTKIN</a> § 37.11[1]</li> <li><a href="#">TURNER</a> §§ 6.1-6.2 and 6.18-6.27</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">RUTKIN ET AL.</a> § 27.20</li> <li>24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 549-551</li> <li>27C <a href="#">C.J.S.</a> Divorce §§ 907, 911</li> <li><a href="#">GOLDBERG</a>, Chap. 9</li> <li><a href="#">TURNER</a> §§ 6.38-6.41</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">RUTKIN ET AL.</a> § 29.14</li> <li>27C <a href="#">C.J.S.</a> Divorce §§ 907, 911</li> <li><a href="#">RUTKIN</a> §§ 37.11[2], 38.05[f]</li> <li><a href="#">TURNER</a> §§ 6.28-6.37</li> </ul>

	Classification	Valuation	Distribution
<b>Personal injury, worker's compensation and other awards (Tort)</b>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 37.13;</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.23</li> <li>• <a href="#">TURNER</a> § 6.53 and §6.59</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 513-514</li> <li>• 27C <a href="#">C.J.S</a> Divorce §§ 924</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a>, §§ 12.11-12.12, 12.14</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 37.13</li> <li>• <a href="#">TURNER</a> §§ 6.58-6.59</li> </ul>
<b>Personal property</b>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN ET AL.</a> § 26.7</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a>, §§ 15.381-15.409</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 38.05[1][b]</li> </ul>
<b>Prizes and awards</b>	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> § 6.82</li> </ul>		<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 37.13[5]</li> </ul>
<b>Professional Degrees and licenses</b>	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> §§ 6.60-6.61</li> <li>• <a href="#">RUTKIN</a> § 26.15</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.15</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation § 499-501</li> <li>• 27C <a href="#">C.J.S</a> Divorce § 560</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">BROWN</a></li> <li>• <a href="#">RUTKIN ET AL.</a> § 27.17</li> <li>• 24 <a href="#">AM JUR 2D</a> Divorce and Separation § 545</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> §§ 37.10 and 38.05[1][e]</li> </ul>
<b>Professional Practices</b> including goodwill	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> §§ 6.71-6.72</li> <li>• <a href="#">RUTKIN</a> §37.08[1], §37.09</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.16</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation § 502</li> <li>• 27C <a href="#">C.J.S</a> Divorce §914</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">BROWN</a></li> <li>• <a href="#">GOLDBERG</a>, Chap. 8</li> <li>• <a href="#">TURNER</a> §§ 6.72-6.75</li> <li>• <a href="#">RUTKIN</a> § 37.08[2]</li> <li>• <a href="#">RUTKIN ET AL.</a> § 27.18</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation §§ 546-547</li> <li>• 27C <a href="#">C.J.S</a> Divorce §915</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a>, §§ 37.08[3] and 38.05[1][d] &amp; [e]</li> </ul>

	Classification	Valuation	Distribution
<b>Real estate</b>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN ET AL.</a> § 26.4</li> <li>• 27C <a href="#">C.J.S.</a> Divorce § 921</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a>, §12.7;</li> <li>• <a href="#">RUTKIN ET AL.</a> § 27.16</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 38.05[1][a]</li> </ul>
<b>Stocks and Securities</b>	<ul style="list-style-type: none"> <li>• <a href="#">TURNER</a> § 6.47 (stock options)</li> <li>• <a href="#">RUTKIN ET AL.</a> § 26.8</li> <li>• 24 <a href="#">AM JUR 2d</a> Divorce and Separation § 494</li> <li>• 27C <a href="#">C.J.S.</a> Divorce § 922</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">GOLDBERG</a>, Chap. 7</li> <li>• <a href="#">TURNER</a> § 6.50 (stock options)</li> <li>• <a href="#">RUTKIN ET AL.</a> § 27.19</li> <li>• 27C <a href="#">C.J.S.</a> Divorce § 923</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">RUTKIN</a> § 38.05[1][c]</li> </ul>
<b>Trusts</b>	<ul style="list-style-type: none"> <li>• <a href="#">Turner</a>, §§ 6.92-6.94</li> </ul>		<ul style="list-style-type: none"> <li>• <a href="#">Turner</a>, §§ 6.92-6.94</li> </ul>

### Key to Resources Referenced:

24 [AM JUR](#) = 24 [AM JUR 2d](#) *Divorce and Separation* (2008).

[BROWN](#) = RONALD L. BROWN, [VALUING PROFESSIONAL PRACTICES AND LICENSES: A GUIDE FOR THE MATRIMONIAL PRACTITIONER](#) (3d. 1998).

27C [CJS](#) = 27C [C.J.S.](#) *Divorce* (2005).

[GOLDBERG](#) = BARTH H. GOLDBERG, [VALUATION OF DIVORCE ASSETS](#) (2005).

[RUTKIN](#) = 3 ARNOLD H. RUTKIN, GEN. ED., [FAMILY LAW AND PRACTICE](#) (2002).

[RUTKIN ET AL.](#) = 7& 8A ARNOLD H. RUTKIN, SARAH S. OLDHAM, AND KATHLEEN A. HOGAN, [CONNECTICUT PRACTICE SERIES, FAMILY LAW AND PRACTICE WITH FORMS](#) (2010).

[TURNER](#) = BRETT R. TURNER, [EQUITABLE DISTRIBUTION OF PROPERTY](#) (3d ed. 2005).